

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

ANTONIO VALDEZ #98735-079

CASE NO. 1:20-CV-00725 SEC P

VERSUS

JUDGE DRELL

USA

MAGISTRATE JUDGE PEREZ-MONTES

ORDER

Before the court is a motion for temporary restraining order (Doc. 1) filed by petitioner Antonio Valdez (“Valdez” or “Petitioner”). Valdez’ motion seeks two forms of relief therein: (1) recalculation of his sentence to remove the enhancement applied by virtue of Valdez’ “career offender” status, and (2) to have his sentence of imprisonment converted to a period of home confinement under the Coronavirus Aid Relief and Economic Security (“CARES”) Act (Pub. L. 116-136).

Insofar as Valdez’s motion seeks reconsideration of his sentence, this court is not the proper venue for the filing of such motion. Fed. R. Crim. P. 35; U.S. v. Harper, 460 F.2d 1024 (5th Cir. 1972). After review of Valdez’s underlying criminal case in the Southern District of Texas, Corpus Christi Division (Crim. Act. No. 02-CR-00059), we deem transfer of this motion to be futile. The record shows that this identical motion was already filed in that court and duly considered by U.S. District Judge Janice Graham Jack, the sentencing judge. (Doc. 114). Moreover, Judge Jack issued her ruling in this motion on May 28, 2020, denying Valdez’ requested relief. (Doc. 115).

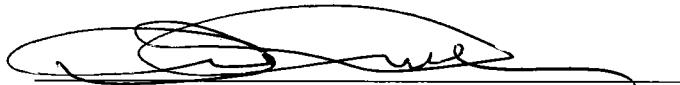
Although we are without jurisdiction to consider Valdez’ motion, we note that this court would similarly lack jurisdiction over Valdez’s CARES Act claim. United States v. Korieocha, 2020 WL 2331679 (E.D. La. 2020); United States v. Gentry, 2020 WL 2131001 (W.D. La. 2020); United States v. Figueroa Maldonado, 2020 WL 2225182 (S.D. Tex. 2020); United States v.

Echols, 2020 WL 2309255 (N.D. Miss. 2020). Thus, dismissal of Valdez's CARES Act claim would necessarily follow, were this motion properly before this court for disposition.

Considering the foregoing, it is hereby

ORDERED that Valdez' motion is DENIED as MOOT.

THUS DONE AND SIGNED at Alexandria, Louisiana this 15 day of June, 2020



DEE D. DRELL, JUDGE
UNITED STATES DISTRICT COURT